

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**ANDREW GARRETT**

**v.  
MICHAEL BROWN**

**APPELLANT,**

**RESPONDENT.**

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DOCKET NUMBER WD78443  
DATE: December 15, 2015

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Appeal From:

Jackson County Circuit Court  
The Honorable Kevin D. Harrell, Judge

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Appellate Judges:

Division Three: Joseph M. Ellis, Presiding Judge, Karen King Mitchell, Judge and Gary D. Witt, Judge

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Attorneys:

Douglas B. Ponder, St. Louis, MO, for appellant.

Douglas P. Hill, Overland Park, KS, for respondent.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**ANDREW GARRETT,**

**APPELLANT,**

**v.**

**MICHAEL BROWN,**

**RESPONDENT.**

No. WD78443

Jackson County

Before Division Three: Joseph M. Ellis, Presiding Judge, Karen King Mitchell, Judge and Gary D. Witt, Judge

Appellant, Andrew Garrett ("Garrett") appeals the grant of summary judgment by the Circuit Court of Jackson County, in favor of Respondent Michael Brown ("Brown"). While working as a billposter for CBS Outdoor, Garrett was injured when he fell while climbing a billboard structure. He brought suit against his co-employee and supervisor, Brown, for violating the duty of care owed to Garrett. The court granted summary judgment finding Brown could not be liable for Garrett's injuries because they were caused by CBS Outdoor's non-delegable duty to provide a safe work environment. On appeal, Garrett alleges that the court erred in granting summary judgment because there was a genuine issue of material fact as to whether Brown violated the policies of CBS Outdoor causing Garrett's injuries and thus, may be liable.

**WE REVERSE AND REMAND**

**Division Three holds:**

There exists a genuine issue of material fact as to whether CBS Outdoor had knowledge that Brown was in violation of its safety policies. If CBS Outdoor took reasonable steps to ensure that its safety policy was communicated to Brown, that Brown was properly trained on the policy and that the policy was enforced by Brown, then Brown's violation of the policy under these facts may have constituted a violation of his personal duty establishing co-employee liability. We reverse and remand for further proceedings consistent with this opinion.

Opinion by Gary D. Witt, Judge

December 15, 2015

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